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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,266	07/11/2001	Anastacia Rosario Aricayos Barangan	AA473	1483

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EXAMINER
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HIRL, JOSEPH P

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 06/01/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/903,266	<b>Applicant(s)</b> BARANGAN ET AL.	
	<b>Examiner</b> Joseph P. Hirl	<b>Art Unit</b> 2121	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                        |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8</u> . | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. This Office Action is in response to an AMENDMENT entered March 15, 2004 for the patent application 09/903,266 filed on July 11, 2001.
2. The First Office Action of December 13, 2003 is fully incorporated into this Final Office Action by reference.

### ***Status of Claims***

3. Claim 16 was canceled. Claims 1-15 and 17-23 are pending.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The statement "...each of the recommended fabric care products have at least one common characteristic..." makes the claim indefinite since commonality requires a comparison but the claim does not cite what comparison is intended.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Koopersmith.

***Claim 1***

Koopersmith anticipates under control of a first client system (**Koopersmith**, Fig. 1); collecting personalized consumer data pertaining to a consumer's fabric care needs and habits and pertaining to non-fabric care related information (**Koopersmith**, paras 0126-1327); sending the data to a server system (**Koopersmith**, Fig. 4); under control of the server system (**Koopersmith**, Fig. 4); receiving the data from the first client

system (**Koopersmith**, Fig. 1); based on the consumer's personalized data determining a recommendation for one or more fabric care products (**Koopersmith**, para 4); and sending the recommendation to the first client system, a second client system or both (**Koopersmith**, Fig. 1).

***Claim 2***

Koopersmith anticipates under control of the first client system; receiving the recommendation for the one or more fabric care products (**Koopersmith**, Fig. 1; para 92).

***Claim 3***

Koopersmith anticipates under control of the first client system; displaying one or more queries; and in response to one or more actions by the consumer, sending answers to the one or more queries to a server system (**Koopersmith**, Fig. 1; para 92).

***Claim 4***

Koopersmith anticipates household budget considerations; space considerations within the household; existence and/or identity of any allergies in the consumer's household; relative priority of fabric care operations to other household and family demands on the consumer's time; the consumer's habits, hobbies and personal interests; the consumer's ambitions and life goals; the consumer's stage in life; the consumer's preferred media; and mixtures thereof (**Koopersmith**, paras 0126-1327).

***Claim 5***

Koopersmith anticipates under control of the server system; calculating a recommended quantity for each of the one or more fabric care products recommended

for purchase; and sending the recommended quantities with the purchase recommendation to the first client system, a second client system or both (**Koopersmith**, Fig. 1; para 92).

***Claim 6***

Koopersmith anticipates under control of the first client system; receiving the recommended quantities for each of the fabric care products recommended for purchase (**Koopersmith**, Fig. 1; para 92).

***Claim 7***

Koopersmith anticipates the server system communicates with the first client system via the Internet (**Koopersmith**, Fig. 1; para 2).

***Claim 8***

Koopersmith anticipates under control of the first client system with one or more actions by the consumer, one or more fabric care products are selected for purchase and a request is sent to the server system to purchase the selected fabric care products (**Koopersmith**, Figs. 7, 8; paras 98-99).

***Claim 9***

Koopersmith anticipates the fabric care products are selected from the group consisting of laundry detergents, fabric conditioning compositions, wrinkle removal compositions, bleaches, bleach activators, dye fixatives, stain removers, anti-static compositions, dryer added sheet products and mixtures thereof (**Koopersmith**, Figs. 7, 8; paras 98-99).

***Claim 10***

Koopersmith anticipates the fabric care products selected for purchase are identified, packaged and delivered to the consumer (**Koopersmith**, Figs. 7, 8; paras 98-99).

***Claim 11***

Koopersmith anticipates the fabric care products selected for purchase are dispensed directly to the consumer or they are dispensed to a fabric laundering or fabric drying apparatus under control of the consumer (**Koopersmith**, Figs. 7, 8; paras 98-99).

***Claim 12***

Koopersmith anticipates wherein a receipt identifying the fabric care products selected for purchase is issued to the consumer before the products are delivered to the consumer (**Koopersmith**, para 113).

***Claim 13***

Koopersmith anticipates the receipt comprises an electronic transmitter beacon, and wherein the location of the consumer can be determined electronically with the assistance of the electronic transmitter beacon, once the consumer is located, the fabric care products can be delivered directly to the consumer (**Koopersmith**, para 2; EN: para 2 applies; the internet is an electronic network that includes transmitters, i.e. cell phones which are beacons and would facilitate delivery).

***Claim 14***

Koopersmith anticipates a plurality of fabric care products are recommended for purchase and each of the recommended fabric care products have at least one

common characteristic, wherein the common characteristic is selected from the group consisting of perfume, product color, package color, and mixtures thereof

(**Koopersmith**, Claim 10; EN: this claim is indefinite).

***Claim 15***

Koopersmith anticipates the number, ages and gender of the people in the consumer's household; the frequency with which fabric care processes are conducted by the consumer or by members of the consumer's household; the type and color of fabrics that are cared for; and Mixtures thereof (**Koopersmith**, paras 0126-1327; para 48).

***Claim 17***

Koopersmith anticipates the server system comprises a customized web site having a user interface, wherein the user interface includes consumer identification data unique to each consumer who accesses the web site, and wherein the consumer identification data is stored in a data repository and is used to create a unique consumer profile corresponding to the consumer identification data for each consumer (**Koopersmith**, Fig. 6; paras 0126-1327).

***Claims 18, 23***

Koopersmith anticipates providing a sample of a fabric care product identified in the fabric care recommendation, said sample being provided to the consumer associated with the personalized consumer data (**Koopersmith**, para 120).



***Claim 19***

Koopersmith anticipates under control of an interactive user interface (**Koopersmith**, Figs. 1, 6): collecting personalized consumer data pertaining to a consumer's fabric care needs and habits and pertaining to non-fabric care related information (**Koopersmith**, paras 0126-1327); comparing the personalized data to a data repository, wherein the data repository comprises fabric care data selected from the group consisting of fabric care products, dosage recommendations, usage instructions, and mixtures thereof (**Koopersmith**, para 92); and preparing a fabric care recommendation (**Koopersmith**, para 93; EN: filtering will customize the recommendation).

***Claim 20***

Koopersmith anticipates the interactive user interface comprises a computer assembly connected to the data repository, a display device and an input device (**Koopersmith**, Figs. 1, 6).

***Claim 21***

Koopersmith anticipates the fabric care recommendation is displayed on the display device (**Koopersmith**, Figs. 1, 6; para 17).

***Claim 22***

Koopersmith anticipates wherein the personalized consumer data pertaining to non-fabric care related information is selected from the group consisting of: household budget considerations; space considerations within the household; existence and/or identity of any allergies in the consumer's household; relative priority of fabric care

operations to other household and family demands on the consumer's time; the consumer's habits, hobbies and personal interests; the consumer's ambitions and life goals; the consumer's stage in life; the media preferred by the consumer; and mixtures thereof (**Koopersmith**, Fig. 6; para 17; paras 0126-1327).

### ***Response to Arguments***

8. The objection to the missing claim 16 is withdrawn.
9. Applicant's arguments filed on March 15, 2004 related to Claims 1-15 and 17-23 have been fully considered but are not persuasive.

In reference to Applicant's argument:

The Office Action rejects Claim 14 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the statement "... each of the recommended fabric care products have at least one common characteristic ..." makes the claim indefinite since commonality requires a comparison but the claim does not cite what comparison is intended. Applicants respectfully disagree and submit that the rest of the claim species what comparison is intended by defining the common characteristic as one "selected from the group consisting of perfume, product color, package color, and mixtures thereof." Therefore one skilled in the art will readily appreciate that the comparison is based upon perfume, product color, package color, and mixtures thereof. As such, the rejection under 35 USC 112 is respectfully requested to be withdrawn.

Examiner's response:

Claim 14 is a Markush type claim (MPEP 803.02) with an improper format represented by mixing the members of the subject group rendering the claim indefinite. Further, the term "common" is relative and the Markush group as defined does not

identify, as an example, the world of perfume to identify what is embodied by "common perfume."

In reference to Applicant's argument:

Applicants submit that no mention is made in Koopersmith regarding fabric care -- either collecting data regarding a consumer's fabric care needs or recommending a fabric care product. The Office Action, at best, cites to paragraphs 0126 to 1327, which represents a citation to over 1200 paragraphs as authority for showing the claim element of collecting data regarding a consumer's fabric care needs. Applicants fail to see any paragraph that identically shows "collecting personalized consumer data pertaining to a consumer's fabric care needs." In any event, Applicants submit that such a vague reference to over 1200 paragraphs fails to meet the Office's duty to establish a prima facie case of anticipation.

Examiner's response:

Para 6 below applies. Applicant's specific reference is to claim 1's specific "non-fabric care related information" and certainly the reference paragraphs of Koopersmith do indeed relate. To one of ordinary skill in the art, "fabric" refers to an underlying structure. Further, and concerning fabric care needs, the same paragraphs have relevance related to many items that have fabric related material. The applicant must appreciate that the Examiner has the obligation to interpret each claim in the broadest reasonable sense...and just about everything one (person) relates to has fabric in its' intrinsic makeup. Generalized claims facilitate such interpretation and terminology such as "fabric care" facilitates many features of "prima facie". Applicant admits at specification page 4, line 10-11 to : "The present invention is also directed to apparatuses providing a fabric care recommendation" which is specifically noted in Koopersmith by washer and drying machines (0219 and 0220).

In reference to Applicant's argument:

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The Office Action cites to paragraph 004 for identically showing the claim element of "determining a recommendation for one or more fabric care products." Applicants' review of paragraph 004 reveals a method of purchasing ;a. "two slice toaster oven" No mention is made of fabric care products. The Office Action also cites to Fig. 1 and paragraph 92. Again, Applicants submit that Fig. 1 and paragraph 92 is directed to a "two slice toaster" and not a fabric care product.

Examiner's response:

Para 6 below applies. As noted above, the invention relates to apparatuses, and certainly toaster ovens are found in the personal home. Koopersmith determines a recommendation in the cited paragraphs.

In reference to Applicant's argument:

According to MPEP section 707.07 (g) piecemeal examination is to be avoided as much as possible. The Office Action concludes by citing to a few references as being not relied upon but considered "pertinent" to Applicant's disclosure. Applicants assert that the claimed invention is patentable over these references and remind the Office of the MPEP's prohibition of piece meal prosecution.

Examiner's response:

Para 6 below applies. The prior art as noted is pertinent to the character of the claims and specification.

### ***Examination Considerations***

10. The claims and only the claims form the metes and bounds of the invention.

"Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

11. Examiner's Opinion:

Para 6 above applies. The concept of distributing information via a network server is generic to the industry and characterizing the invention within the fabric care products arena is indefinite. The message conveyed by the reference to "1200" paragraphs is indeed to point out the generic makeup of the applicant's disclosure.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Claims 1-15 and 17-23 are rejected.

***Correspondence Information***

13. Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner, Joseph P. Hirl, whose telephone number is (703) 305-1668. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anthony Knight can be reached at (703) 308-3179.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,

Washington, D. C. 20231;

or faxed to:

(703) 746-7239 (for formal communications intended for entry);

or faxed to:

(703) 746-7290 (for informal or draft communications with notation of

"Proposed" or "Draft" for the desk of the Examiner).

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Hand-delivered responses should be brought to:

Receptionist, Crystal Park II

2121 Crystal Drive,

Arlington, Virginia.



**Anthony Knight**  
**Supervisory Patent Examiner**  
**Group 3600**



Joseph P. Hirl

May 21, 2004